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| 10/647,991 | 08/26/2003 | John Moenning | 7432-0046 | 2487 |

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| EXAMINER |
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ALI, SHUMAYA B

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| ART UNIT | PAPER NUMBER |
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3743

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,991

Applicant(s)

MOENNING ET AL.

Examiner

Shumaya B. Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 13-18, 20, 22-23, 28-29, 31-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 19-21, 24-27 and 30 is/are rejected.
- 7) ☒ Claim(s) 8 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>detailed action</u> . |

DETAILED ACTION

Election/Restrictions

1. In response to Election/restriction office action of 15 December 2004, applicant has elected a dual gas line of Group II (figures 1B-10B), sub-specie Group II 1a—the vent, and Group II 2a—T-shaped exhaust connector. Applicant considers amended claims 1-33 read on the elected species, however claims 13-18,20,22-23,28-29, and 31-33 disclose “one-way flow valve” which read on a non-elected species. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-18,20,22-23,28-29, and 31-33 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 8 recites the limitation “the inflation valve” in line 5, page 9. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12, recites “an inspiratory port”, limitation is recited in claim 9 as well. Disclosure is vague regarding the invention requiring two distinct inspiratory ports.

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5. Claim 14 recites the limitation "the strap" in line 4; page 11, there is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 10, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Blasdel et al. US Patent 5,419,317

7. As to claim 1, Blasdel et al disclose an anesthesia delivery device for use on a patient having a mouth and a nose having a naris, the delivery device being capable of being coupled to a ventilation system (fig.21 reference object 142) having an inspiratory gas input for delivering gas to the patient and an exhaust gas output (fig.17 reference object 130) for delivering gas from a patient to the ventilation system, the anesthesia device comprising: an inspiratory gas line (fig.14 reference object 48) having a machine end and a patient end (figure 21 seems to depict gas line 48 with a "patient end" in communication with a mask 20 and a "machine end" in communication with a gas source 145), the machine end being capable of being fluidly coupled to the inspiratory gas input of the ventilation system (see fig.21 reference object 145), and the patient end being configured for being received within the naris of the patient for delivering inspiratory gas to the naris of the patient's a face mask (see fgi.21 reference object 20) comprising a dome portion (fig.14, mask seems to fit over a patient's nose, therefore

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considered to have a doomed portion that provides an inside area to accommodate nose) sized to cover the patient's nose without covering the patient's mouth (see fig.14), the dome portion defining an inside air space_(fig.15, the doomed portion providing an inside area, where an outlet end 43 is situated to accommodate nose reference object 15) between the patient's nose and the dome portion, and an outside air space exterior of the dome portion (a doomed shaped mask would inherently have an exterior air space outside the mask), a vent (fig.16 reference object 132) for allowing gas to pass between the inside air space and the outside air space, and an exhaust port (fig.16 reference object 138) capable of being fluidly coupled to the exhaust gas output of the ventilation system for allowing gas to pass from the inside air space to the exhaust gas output of the ventilation system; wherein the exhaust port and vent are capable of cooperatively exerting a negative pressure on the outside air space adjacent to the face mask for preventing inspiratory gases from entering the outside air space adjacent to the face mask (underlined limitation is considered an expected result from an exhaust system used in a gas rebreathing circuit; an exhaust system scavenges gas leaking out of the mask, thereby creates a negative pressure in the inside airspace of the mask to provide a facial seal).

8. As to claim 5, Blasdell et al. disclose the anesthesia delivery device of claim 1 wherein the vent is formed as a part of the facemask (fig.14 seems to depict a complete assembly of the inhalation system where the vent is in contact with the mask, therefore considered to be a part of the mask).

9. As to claim 10, Blasdell et al disclose the anesthesia delivery device of claim 1 wherein the inspiratory gas line comprises a mask connector member (fig.15 seems to depict a connector member between 48 and 23) for connecting the inspiratory gas line to the facemask.

10 As to claim 21, Blasdell et al disclose an anesthesia delivery device for use on a patient having a mouth and a nose having a naris, the delivery device being capable of being coupled to a ventilation

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system having an inspiratory gas input for delivering gas to the patient and an exhaust gas output for delivering gas from a patient to the ventilation system, the anesthesia device comprising: an inspiratory gas line having a machine end and a patient end, the machine end being capable of being fluidly coupled to the inspiratory gas input of the ventilation system, and the patient end being configured for being received within the naris of the patient for delivering inspiratory gas to the naris of the patient, and a facemask comprising a dome portion sized to cover the patient's nose without covering the patient's mouth, the dome portion defining an inside air space between the patient's nose and the dome portion, and an outside air space exterior of the dome portion, and an exhaust port; a vent for allowing gas to pass between the inside air space and the outside air space; and an exhaust connector (see fig.21 reference object 139) connected to the exhaust port of the face mask and capable of being fluidly coupled to the exhaust gas output of the ventilation system (see fig.21, 139 has one end in communication with the exhaust gas output 138 and the other end in communication with a ventilation system 142) for allowing gas to pass from the inside air space to the exhaust gas output of the ventilation system; wherein the exhaust port and vent are capable of cooperatively exerting a negative pressure on the outside air space adjacent to the face mask or preventing inspiratory gases from entering the outside air space adjacent to the face mask (all other limitations are cited in claim 1).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

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matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blasdel et al. US Patent 5,419,317

12. As to claim 11, Blasdel et al disclose the anesthesia delivery device of claim 10 wherein the inspiratory gas line further comprises a first side line, and a second side line (fig.15 seems to depict two inspiratory gas lines 48), and a slide member (see attached fig.21); wherein inspiratory gases pass between the machine end and the patient end of the inspiratory gas line through both the first side line and the second side line (an expected outcome of two gas lines connected to a gas source); wherein the slide member surrounds the first and second side lines and is slideable (an obvious function of a slide member) along the first and second side lines allowing the first and second side lines to be placed on opposite sides of the patient's head (see fig.14) and the slide member can be positioned to create a snug fit (a slideable member is capable of providing a snug fit) of the inspiratory gas line around the head of the patient to hold the anesthesia delivery device in place.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasdel et al. US Patent 5,419,317 in view of Schauweker US Patent 2,462,005

13. As to claim 2, Blasdel et al do not disclose the anesthesia delivery device of claim 1 further comprising an eye shield having a shield attachment mechanism for attaching the eye shield to the facemask such that the eye shield covers the eyes of the patient. As to claim 2, Schauweker teaches a face shield of a flat substantially rectangular shaped transparent member (see col.4 lines 37-39) with a pair of downwardly extending convergent straps, which attach the eye shield to a respirator

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(see col.2 lines 40-46). Therefore, it would have been obvious to one of ordinary skill in the art to add a flat eye shield with attachment mechanism to the invention of Blasdel in view of Schauweker for the purposes of preventing possible injuries to the eyes and face from dust (see col.2 lines 28-29) and biohazard substances.

14. As to claim 3, Blasdel et al disclose the anesthesia delivery device of claim 2 further comprising an exhaust line (see fig.15 reference object 138) attached to the exhaust port of the face mask, however do not disclose wherein the shield attachment mechanism comprises a cut-out portion shaped to fit around the exhaust line. As to claim 3, Schauweker teaches an eye shield as stated above with central opening ("cut-out") near the lower edge to receive a portion of a respirator (see col.4 lines 37-42). Schauweker teaches opening in the eye shield can be fit around an object; therefore, the eye shield is capable of receiving or fitting around the exhaust line. Therefore, it would have been obvious to one of ordinary skill in the art to have an opening in the shield to the invention of Blasdel in view of Schauweker for the purposes of receiving the exhaust line.

15. As to claim 4, Blasdel et al do not disclose the anesthesia delivery device of claim 2 wherein the eye shield is a flat sheet-like shaped piece of material. As to the underlined limitation, applicant has not established criticalities regarding a particular shape of the eye shield used in the invention. Therefore, it would have been obvious to one of ordinary skills in the art to consider the shape of the shield an obvious design choice since they can vary in shapes and sizes. As to claim 3, Schauweker teaches an eye shield as stated above with central opening ("cut-out") near the lower edge to receive a portion of a respirator (see col.4 lines 37-42). . Schauweker teaches a face shield of a flat substantially rectangular shaped transparent member (see col.4 lines 37-39). Therefore, it would have been obvious to one of ordinary skill in the art to add a flat eye shield to the invention

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of Blasdell in view of Schauweker for the purposes of preventing possible injuries to the eyes and face from dust (see col.2 lines 28-29) and biohazard substances.

Claims 24-27, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasdell et al.

US Patent 4,265,239 and Schauweker US Patent 2,462,005 and in view of Kwok et al. US Patent 6,112,746

16. As to claim 24, Blasdell et al disclose an anesthesia delivery device for use on a patient having a mouth and a nose having a naris, the delivery device being capable of being coupled to a ventilation system having an inspiratory gas input for delivering gas to the patient and an exhaust gas output for delivering gas from a patient to the ventilation system, the anesthesia device comprising: a face mask comprising a dome portion having a lower edge, the dome portion being sized to cover the patient's nose without covering the patient's mouth, the dome portion defining an inside air space between the patient's nose and the dome portion, and an outside air space exterior of the dome portion, a vent for allowing gas to pass between the inside air space and the outside air space, an exhaust port for allowing gas to pass from the inside air space of the dome portion; and an inspiratory port (**fig.15 reference object 23**); an inspiratory gas line having a machine end and a patient end, the machine end being located in the outside air space and being capable of being fluidly coupled to the inspiratory gas input of the ventilation system, and the patient end being located in the inside air space and being configured for being received within the naris of the patient for delivering inspiratory gas to the naris of the patient, the inspiratory gas line passing from the outside air space into the inside air space through the inspiratory port; an exhaust line having a machine end and a patient end, the machine end being capable of being fluidly coupled to the exhaust gas output of the ventilation system, and the patient end being connected to the exhaust port for scavenging gases from

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the inside air space of the dome portion; wherein the exhaust port and vent are capable of cooperatively exerting a negative pressure on the outside air space adjacent to the face mask for preventing inspiratory gases from entering the outside air space adjacent to the face mask **(all limitations are cited in claim 21), however do not disclose a cushion member attached to the lower edge of the dome portion,**(as to claim 24, Kwok et al. teach a nasal mask cushion to sealingly connect a mask to a wearer's face (see col.1 lines 65-66). Also teach a seal is formed with a deformable membrane (see col.3 line 47-50, col.4 line 26). Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to modify the nosepiece of Blasdell in view of Kwok et al. in order to provide the mask with a deformable cushioning member for the purposes of providing a tight seal along the mask's periphery), and an eye shield having a shield attachment mechanism for attaching the eye shield to the face mask such that the eye shield covers the eyes of the patient (as to claim 24, Schauweker teaches a face shield of a flat substantially rectangular shaped transparent member (see col.4 lines 37-39) with a pair of downwardly extending convergent straps which attach the eye shield to a respirator (see col.2 lines 40-46). Therefore, it would have been obvious to one of ordinary skill in the art to add a flat eye shield with attachment mechanism to the invention of Blasdell in view of Schauweker for the purposes of preventing possible injuries to the eyes and face from dust (see col.2 lines 28-29) and biohazard substances).

17. As to claim 25 Blasdell et al. do not disclose the anesthesia delivery device of claim 24 wherein the cushion member is a bladder filled with a gas; and wherein the face mask further comprises an inflation valve for increasing or decreasing the gas pressure within the bladder **(however, limitation is not given any weight since the disclosed figures fails to show "an inflation valve)**; and wherein the eye shield further comprises an aperture sized and located to fit around the inflation valve. .As to claim 25,

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Schauweker teaches an eye shield as stated above with central opening ("cut-out") near the lower edge to receive a portion of a respirator (see col.4 lines 37-42). Schauweker teaches opening in the eye shield can be fit around an object; therefore, the eye shield is capable of receiving or fitting around the exhaust line. Therefore, it would have been obvious to one of ordinary skill in the art to have an opening in the shield to the invention of Blasdel in view of Schauweker for the purposes of receiving the exhaust line.

18. As to claim 26, Blasdel et al disclose the anesthesia delivery device of claim 10 wherein the inspiratory gas line further comprises a first side line, and a second side line (fig.15 seems to depict two inspiratory gas lines 48), and a slide member (see attached fig.21); wherein inspiratory gases pass between the machine end and the patient end of the inspiratory gas line through both the first side line and the second side line (an expected outcome of two gas lines connected to a gas source); wherein the slide member surrounds the first and second side lines and is slideable (an obvious function of a slide member) along the first and second side lines allowing the first and second side lines to be placed on opposite sides of the patient's head (see fig.14) and the slide member can be positioned to create a snug fit (a slideable member is capable of providing a snug fit) of the inspiratory gas line around the head of the patient to hold the anesthesia delivery device in place.

19. As to claim 27, Blasdel et al. do not disclose the anesthesia delivery device of claim 24 further comprising a strap for attaching the anesthesia delivery device to the patient's head. As to claim 27, Kwok et al. teach a nasal mask connected inspiratory gas tube (65) where both the mask and the tube are secured to the head of a patient by straps 68 and 78 respectively (see fig.4). Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to

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modify the delivery device of Blasdel in view of Kwok in order to provide straps for the purposes of securing the device to a patient's head.

20. As to claim 30, limitations are cited according to claim 24.

Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasdel et al. US Patent 4,265,239 in view of Kwok et al. US Patent 6,112,746

21. As to claim 7, Blasdel et al do not disclose the anesthesia delivery device of claim 6 wherein the vent comprises an aperture formed in the dome portion of the face mask ' As to claim 7, Kwok et al. teach a nasal mask with vent openings on the mask body by which expired gas is exhausted (see col.4 lines 9-10). Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was to modify the mask of Blasdel in view of Kwok in order to provide vents on the mask body for the purposes of allowing expired gas to be exhausted from the interior air-space of the mask.

22. As to claim 19, Blasdel et al do not disclose the anesthesia delivery device of claim 1 wherein the vent is formed by an aperture in the facemask, Kwok et al. teach the claimed limitation (see reasoning provided for claim 5).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blasdel et al. US Patent 4,265,239 and Kwok et al. US Patent 6,112,746 and in view of Vanuch US Patent 5,243,78

23. As to claim 6, Blasdel et al do not disclose the anesthesia delivery device of claim 5 further comprising a cushion member attached to the lower edge of the dome portion of the facemask, wherein the cushion member contains a bladder filled with a gas, and is scented. As to claim 6, Kwok et al. teach a

nasal mask cushion to sealingly connect a mask to a wearer's face (see col.1 lines 65-66). Also teach a seal is formed with a deformable membrane (see col.3 line 47-50, col.4 line 26). As to claim 6, Vanuch teach scented mask is intended primarily for quick and convenient use and availability in situations where the wearer seeks to avoid experiencing unpleasant odor (see col.1 lines 22-26). Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to modify the nosepiece of Blasdel in view of Kwok et al. in order to provide the mask with a deformable cushioning member for the purposes of providing a tight seal along the mask's periphery and provide the mask of Fisher with scented material in view of Kwok et al. and in further view of Vanuch for the purposes of avoid unpleasant odor.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blasdel et al. US Patent 4,265,239 in view of Muto et al. US Patent 4,454,880

24. As to claim 9, Blasdel et al. disclose the anesthesia delivery device of claim 1 wherein the face mask further comprises an inspiratory port (fig.15 reference object 23), the inspiratory gas line passing from the outside air space exterior to the dome portion of the face mask, however do not disclose into the inside air space between the dome portion of the face mask and the patient's nose through the inspiratory port. As to claim 9, Muto et al. teach a soft flexible shell shaped to fit over and cover the nose of a patient (see col.4 lines 13-15), and gas supply tubes (see fig.3 reference objects 56,57) passing through the shell and in contact with nozzles (fig.2 reference object 62) to provide fluid to the patient so that the fluid does not directly jet into the nostrils to possibly burn and dry the nasal mucous, or to cause nasal and septal necrosis (see col.3 lines 35-40). Therefore, it would have been obvious to one of ordinary skills in the art to modify the invention of Blasdel in view of Muto in

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order to pass the gas supply tube into the mask and patient's nose for the purposes of reducing nasal tissue damage that can be caused by the pressure of the fluid/gas and also preventing leakage by ensuring gas flow into the nostril.

Drawings

25. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "an inflation valve" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

26. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

27. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

28. The disclosure is objected to because of the following informalities: Claim 8, seems to disclose two distinct inflation valves, however disclosure is vague regarding the invention requiring two distinct inflation valves. Appropriate correction is required.

29. The disclosure is objected to because of the following informalities Claim 12, recites "an inspiratory port", limitation is recited in claim 9 as well. Disclosure is vague regarding the invention requiring two distinct inspiratory ports. Appropriate correction is required.

Claim Objections

30. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 8 recites "the inflation valve" which does not seem to refer back to the subject matter disclosed in the previous claims that claim 8 depends from.

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31. Claim 19 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 5. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

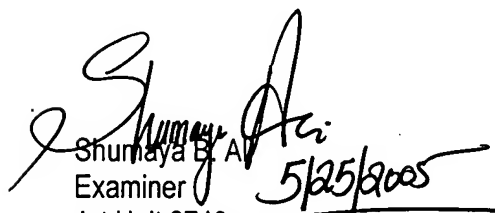
Conclusion

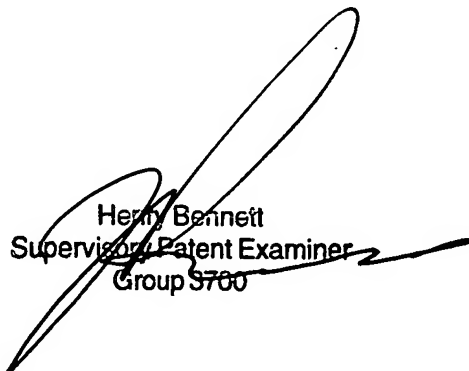
32. The prior art made of record on form PTO-892 and not relied upon disclose gas delivery device.

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Shumaya B. Ali** whose telephone number is **571-272-6088**. The examiner can normally be reached on M-F 8:30 am-4:30 pm.

34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Henry Bennett** can be reached on **571-272-4791**. The fax phone number for the organization where this application or proceeding is assigned is 571-273-6088.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shumaya B. Ali
Examiner
Art Unit 3743
5/25/2005


Henry Bennett
Supervisor, Patent Examiner
Group 3700

U.S. Patent
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